

**EX. 13**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DARCY M. BLACK,

Plaintiff,

-vs-

BUFFALO MEAT SERVICE, INC., doing business  
as BOULEVARD BLACK ANGUS, also known as  
BLACK ANGUS MEATS, also known as  
BLACK ANGUS MEATS & SEAFOOD,  
ROBERT SEIBERT,  
DIANE SEIBERT,  
KEEGAN ROBERTS,

Defendants.

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Examination Before Trial of

RAELEAN MCGEE, taken pursuant to the Federal Rules of Civil  
Procedure, in the law offices of GRECO TRAPP, PLLC, 1700  
Rand Building, 14 Lafayette Square, Buffalo, New York,  
taken on May 20, 2019, commencing at 9:28 A.M., before  
MARY ANN MORETTA, Notary Public.

1 Q. What size -- besides trucks, does he own anything  
2 else?

3 A. Yes. He owns a Bobcat.

4 Q. Is that in his name?

5 A. Yes.

6 Q. Anything else?

7 A. I mean, equipment like snowplows and lawn mowers?

8 Q. Yes.

9 A. Yes. He owns three lawn mowers and seven  
10 snowplows.

11 Q. Is that all in his name?

12 A. Yes.

13 Q. Do you believe the business to be successful?

14 A. Yes.

15 Q. Would you say that he worked hard for that?

16 A. Yes. Very hard.

17 Q. Okay. Did there come a time when you were  
18 employed at Black Angus Meat?

19 A. Yes.

20 Q. I forgot to tell you also. The court reporter  
21 can't take down nods or -- it has to be a verbal  
22 response.

23 A. Okay.

1 Q. Let me show you what's been marked as Exhibit  
2 111. Looking at the first sheet, it's a Black  
3 Angus Meat's payroll pre-check writing report for  
4 the period December 18, '06 to December 24, '06,  
5 indicating that you worked three hundred forty --  
6 forty hours at three hundred twenty dollars per  
7 hour (sic). Do you see that? Which is eight  
8 dollars an hour -- strike that.

9           You worked forty hours and earned three  
10 hundred twenty dollars, which would be eight  
11 dollars an hour?

12 A. Correct.

13 Q. Is that consistent with your recollection?

14 A. Yes.

15 Q. Okay. Now, going to the next page, it is the  
16 payroll pre-check writing report from December  
17 25th to December 31, 2006. And it indicates that  
18 you worked thirty-four point two five hours and  
19 earned two hundred ninety-one dollars and  
20 thirteen cents, which is eight dollars and fifty  
21 cents an hour. Do you recall receiving a raise  
22 at that time?

23 A. I don't remember the time.

1 Q. Do you recall at one point you made eight dollars  
2 and then received a raise to eight dollars and  
3 fifty cents?

4 A. No. I don't remember.

5 Q. Okay. You told me about the first time you  
6 received a raise, there was a sticky?

7 A. Right.

8 Q. Do you recall ever getting another raise?

9 A. I do remember receiving a couple raises. I do.

10 Q. Do you recall the circumstance of this raise  
11 after your first one with the sticky?

12 A. Not specifically, no.

13 Q. Any general recollection?

14 A. No.

15 Q. Okay. Do you have any reason to believe you  
16 didn't get a fifty-cent raise?

17 A. No.

18 Q. And if you did receive that raise, would you  
19 believe it was based on your performance?

20 A. Yes.

21 Q. Did they ever indicate anything to you regarding  
22 your performance?

23 A. Yes. About like the speed of wrapping the meat

1 A. I remember wrapping meat and waiting on  
2 customers.

3 Q. And where would you be wrapping the meat?

4 A. In the front of the store where the customers  
5 are.

6 Q. Did you ever have to go in the -- well, strike  
7 that.

8 Let's talk about the store and its layout --

9 A. Okay.

10 Q. -- when you worked at Black Angus Meat.

11 MS. O'BRIEN: Can we take a quick break?

12 MS. GRECO: Sure. No problem.

13 (Whereupon, a short recess was then taken.)

14 BY MS. GRECO:

15 Q. Let me show you what's been marked as Exhibit  
16 235. Now, do you recognize that as Black Angus  
17 Meat?

18 A. Yes.

19 Q. All right. And when you say you wrapped up  
20 front, in that top picture, is that the area you  
21 are talking about?

22 A. Yes.

23 Q. Okay. In addition to wrapping meat and waiting

1 Q. Okay. And can you -- you said that you worked at  
2 the counter?

3 A. Yes.

4 Q. Where would that be?

5 A. So that would be the counter of these meat  
6 refrigerators, coolers.

7 Q. And it makes what looks like an L or a V?

8 A. Yes.

9 Q. Okay. And you can see the meat in the window.  
10 You would be behind it on the other side, where  
11 the worker is on either side?

12 A. Yes.

13 Q. You also said you wrapped meat. Where would that  
14 be?

15 A. It would be on this table here, number one. And  
16 there's another table closer to the office,  
17 number two.

18 Q. Okay. So there's -- where this says number two,  
19 wrapping table --

20 A. Uh-huh.

21 Q. -- is that where you believe it to be?

22 A. Yes.

23 Q. Okay. And where was the butcher area located,

1       where the butcher was?

2       A.   Behind table number two.

3       Q.   Do you see where it says area of saw and butcher  
4       block with an arrow?

5       A.   Yes.

6       Q.   Is that what that is back there?

7       A.   That is where the butcher was, yes.

8       Q.   Who was the butcher during the time you were  
9       employed there?

10      A.   Tommy.   I remember Tommy.

11      Q.   Tommy who?

12      A.   I don't know his last name.

13      Q.   And what were your hours of work?

14      A.   They varied.   I tried to stay as full-time as  
15      possible, but --

16      Q.   I'm just looking, like, what time during the day,  
17      generally?

18      A.   I would work -- sometimes I work seven to three.  
19      That would be my main schedule, as long as I  
20      can --

21      Q.   Did you ever start at ten in the morning?

22      A.   Yes, I did start at ten.   Because when I would  
23      start early, at seven, is when I would put



1           together meat packages. So if it was a day I was  
2           doing that, I would get in at seven for delivery.

3   Q. Where would you put the meat packages together?

4   A. That would be at the back of the store. And then  
5           I'm pretty sure, most days, if I started at ten,  
6           it was to come in -- it was straight in to  
7           customer service and wrapping.

8   Q. Okay. So before we talked about what duties you  
9           performed. You said seven to three, you would  
10          come in and go to the back of the store?

11   A. Correct.

12   Q. And what would you do there?

13   A. I put together meat packages for delivery.

14   Q. What does that entail?

15   A. It entails putting together a box, marking down  
16          on a list the things the customer wanted, and  
17          then wrapping up the box and labeling it.

18   Q. Where in the back of the store would you do that?  
19          Was there a certain station?

20   A. There was a room. When you came into the back of  
21          the store to the right, there was a room set up  
22          with a couple tables that each person could work  
23          on their own package.

1 exhibited in Exhibit 237?

2 A. Uh-huh.

3 Q. And the back of the store, where you indicated  
4 you would do the wrapping of the meat and the  
5 venison?

6 A. Correct.

7 Q. Okay. And do you know what number two is --

8 A. No.

9 Q. -- whether that was there when you were there?

10 A. No. That is not familiar to me.

11 Q. So you only ever worked in the main building --

12 A. That's correct.

13 Q. -- number one, as exhibited on Exhibit 241?

14 A. Correct.

15 Q. Okay. Did you ever take money when people came  
16 to pay for venison?

17 A. Yes, I did.

18 Q. Was there a separate cash register for venison?

19 A. I think so, yes. Yes.

20 Q. And would venison only be checked out on the cash  
21 register separate -- strike that.

22 Can you describe how many cash registers  
23 there were in the main room?

1 A. I remember one cash register when you come in,  
2 where that V was, for the storefront. And I  
3 don't remember the venison register, but -- where  
4 it was, but I know it was a separate one. I  
5 think it may have been at the -- kind of where  
6 this phone is. I don't remember exactly. But  
7 there was a separate register for venison.

8 Q. What were your instructions with regard to using  
9 the separate register?

10 A. Anybody who came for venison pickup, to cash out  
11 using that register.

12 Q. Did it have receipts that would be given to the  
13 customer?

14 A. Yes.

15 Q. And you would just use that register for venison?

16 A. Correct.

17 Q. Okay. And was venison ever paid for by check or  
18 was it cash only?

19 A. I don't remember.

20 Q. Do you recall any advertising or indication that  
21 venison could be paid for by cash only?

22 A. No. No.

23 Q. Were you ever paid separately for wrapping

1 Q. Have you ever indicated that to anyone?

2 A. No.

3 Q. Do you have any -- do you know any reason why he  
4 would believe such a thing?

5 A. I do not know. I don't know.

6 Q. Do you find it offensive that he would think that  
7 of your boyfriend?

8 A. Absolutely.

9 Q. Going on, page one sixty-one. Question -- this,  
10 again, is Sean Round's deposition.

11 And how did you know whether or not the  
12 person she was with. Answer, because she would  
13 tell us. Question, what would she tell you.  
14 Answer, specifically, I can't say. In a general  
15 sense, that he wasn't working. Question, did you  
16 ever meet him. Answer, not officially, no.  
17 Question, okay. What do you mean by not  
18 officially. Answer, he would come into the  
19 store. Question, were you aware that Raelean,  
20 dash, dash, Regina Rush was dating a black man.  
21 Answer, she dated quite a few in my tenure there.  
22 Question, okay. Answer, so yes, I was aware.  
23 Question, okay. And how did you become aware

1           that she was dating black men. Answer, she would  
2           talk about it. Question, okay. And did any  
3           individuals that she dated that were black come  
4           into the store. Answer, I think so. Question,  
5           and did you ever discuss with her dating a black  
6           man. Answer, no.

7                     Did you ever discuss your choice of a  
8           partner with Sean Round?

9   A. No. Not that I remember.

10 Q. Is that something you would normally do?

11 A. No.

12 Q. Did your boyfriend ever come to the store?

13 A. Yes. I think he had come to the store a couple  
14       of times.

15 Q. And did he ever talk to any of the employees in  
16       the store?

17 A. I don't remember.

18 Q. Okay. Do you ever recall Darcy -- did you ever  
19       tell your mother -- strike that.

20                     Do you ever recall telling anyone that Darcy  
21       told you that Sean Round or anyone was making  
22       offensive comments regarding your boyfriend?

23 A. No.

1 Q. Do you ever recall Keegan Roberts asking you if  
2 Sean -- strike that. Do you ever recall Keegan  
3 Roberts asking you if you had any type of  
4 disagreement with Sean Round?

5 A. No.

6 Q. Okay. Let me read you from Keegan Roberts'  
7 testimony taken on January 12, 2018 under oath.

8 A. Okay.

9 Q. Question, did you ever learn -- strike that. At  
10 any time, did you ever become aware of Sean Round  
11 making a comment to Raelean Rush that her  
12 boyfriend, who is an African-American, was using  
13 her for her good credit score and other things.  
14 Answer, when I got the complaint filed with the  
15 EEOC. Question, in the normal -- other than the  
16 complaint at the EEOC, did you ever learn in your  
17 role as an employee or a manager or owner of the  
18 business that Sean Round made a comment to  
19 Raelean Rush about her boyfriend using her for a  
20 good credit score and other things. Answer, no.  
21 I was aware there was a fight between Sean Round  
22 and Raelean Rush. Question, do you believe Sean  
23 Round made a comment to Raelean Rush about her

1 A. No, I don't remember.

2 Q. Did you ever hear anyone at Black Angus Meat  
3 refer to anyone as nigs?

4 A. No.

5 Q. Bob's nigs. Would you agree with me that if an  
6 employee referred to Black Angus Meat  
7 African-American customers as Bob's nigs, that  
8 that would be offensive?

9 A. That would be offensive, yes.

10 Q. And if you heard that, what, if anything, would  
11 you have done?

12 A. I would have reported it to Diane.

13 Q. Do you ever recall telling anyone that Sean was  
14 Diane and Rob's golden boy?

15 A. No.

16 Q. Do you ever recall anyone, in reference to  
17 African-American employees, saying they have nice  
18 cars and get food stamps?

19 A. No.

20 Q. Have you ever heard anyone, relative to  
21 African-American employees, saying that they have  
22 nice clothes and get food stamps?

23 A. No.

1 A. No.

2 Q. Did you ever hear anyone say, does the carpet  
3 match the drapes?

4 A. No.

5 Q. Do you know what that means?

6 A. Does the carpet match the drapes? Is that  
7 referring to someone's pubic hair?

8 Q. Yes.

9 A. Yes, I've heard of it, but not at Black Angus.

10 Q. Would you find that statement to be offensive, if  
11 someone said that to a woman?

12 A. Yes.

13 Q. Would you find that ever to be appropriate in a  
14 workplace?

15 A. No.

16 Q. If a male employee at Black Angus looked at a  
17 woman and said -- customer or otherwise, and said  
18 oh, look at that cleavage, would that be  
19 appropriate at work?

20 A. No.

21 Q. Would you find that offensive, as a woman?

22 A. Yes.

23 Q. If an employee at Black Angus Meat said to others



1 while working, in reference to a woman's breasts,  
2 your headlights are on, would you find that to be  
3 offensive?

4 A. Yes.

5 Q. If a male at Black Angus Meat referred to any  
6 female, she's got a nice ass, would that be  
7 offensive?

8 A. Yes.

9 Q. Would it ever be appropriate in the workplace?

10 A. No.

11 Q. Did you ever hear that -- from Darcy or anyone,  
12 that her children were referred to in an  
13 offensive term by anybody at Black Angus Meat?

14 A. No.

15 Q. Do you recall Darcy Black calling you the day she  
16 was fired, the day she left work?

17 A. I don't remember, no.

18 Q. Do you recall her contacting you on her way --  
19 actually, on her way as she left the building,  
20 and telling you that Jamie Lapress had referred  
21 to her children as niggers?

22 A. No, I don't remember that.

23 Q. Would it ever be appropriate -- well, first, have

1 Q. Were you ever aware of anyone being disciplined  
2 for anything at Black Angus Meat?

3 A. Not that I recall, no. Uh-uh.

4 Q. Did you ever tell anyone that you were friends  
5 with Darcy Black because -- strike that. Did you  
6 ever believe that Darcy Black was a friend with  
7 you because you were dating someone who was  
8 African-American?

9 A. No.

10 Q. If someone said that, would you find that  
11 offensive?

12 A. Yes, that's offensive.

13 Q. Were you ever friends with Darcy Black because  
14 she had children whose father is  
15 African-American?

16 A. No.

17 Q. If someone said you were friends with her because  
18 you can relate to her because she had children  
19 with an African-American male, would you find  
20 that offensive?

21 A. Yes.

22 Q. Let me show you what's been marked as Exhibit  
23 211, which is a statement that was written to the

1 A. No.

2 Q. Do you think that if he made comments in your  
3 presence about the credit rating -- well, strike  
4 that.

5 Would you agree with me that someone else  
6 could be offended if he made negative comments  
7 about your boyfriend relative to his credit  
8 rating and you?

9 A. Yes.

10 Q. And did you ever think at any time that the  
11 comments he made about your boyfriend, in doing  
12 so, he was stereotyping?

13 A. If that was the comment. I don't know the  
14 comment.

15 Q. But if that was the comment --

16 A. Yes.

17 Q. -- would you be concerned he was stereotyping?

18 A. Yes.

19 Q. Tell me what you mean by that.

20 A. By stereotyping -- by saying using good credit,  
21 that's stereotypical of black, you know,  
22 stereotype that's out there, that they would use  
23 girlfriends for their credit score.

1 Q. Would you find that offensive?

2 A. Yes, that would be offensive.

3 Q. But do you recall if that was the comment that  
4 Sean made to you?

5 A. No.

6 Q. Can you think of anything being more offensive  
7 than having a white employee refer to Darcy  
8 Black's children as niggers?

9 A. No.

10 Q. In your opinion, was that -- the use of that word  
11 be -- strike that. That word, in and of itself,  
12 do you find it offensive?

13 A. Yes.

14 Q. Tell me why.

15 A. Because it's racist to the black race.

16 Q. And if Darcy, who is a white mom, had children  
17 with an African-American father, would that also  
18 be racist relative to her referring to her  
19 children in that way?

20 A. Yes.

21 Q. When you were hired, were you ever informed you  
22 could not request time off for the first twelve  
23 days of the month or on Saturdays?

1 A. No.

2 Q. Do you recall her indicating to you that she  
3 asked him if it was okay for Mr. Lapress to refer  
4 to her children as niggers, and him responding it  
5 happens in sports and politics and she had to  
6 deal with it?

7 A. No, I didn't know that.

8 Q. Does that at all refresh your recollection?

9 A. No.

10 Q. Did Miss Black ever tell you that she was  
11 uncomfortable working around Mr. Lapress because  
12 of his comments?

13 A. No.

14 Q. Did Miss Black ever tell you that Robert Seibert  
15 told her in response, he was uncomfortable with  
16 the situation and she could leave right now?

17 A. No.

18 Q. Would there be any reason you would believe Jamie  
19 Lapress -- strike that. Having worked with both  
20 Jamie Lapress and Darcy Black, would there be any  
21 reason you would believe Jamie Lapress and  
22 disbelieve Darcy Black?

23 A. No.

1 Q. Did Darcy ever, in working with you for the  
2 number of years she did, indicate to you, in any  
3 way, that she was the type of person that would  
4 tell a lie?

5 A. No.

6 Q. Did you always find her to be straightforward and  
7 honest?

8 A. Yes.

9 Q. And if she had told you that Jamie Lapress  
10 referred to her children as niggers, would you  
11 have believed her?

12 A. Yeah, I would have believed her.

13 Q. Do you know any reason why Robert Seibert would  
14 not believe her?

15 A. No.

16 Q. Do you know any reason why Diane Seibert would  
17 not believe her?

18 A. No.

19 Q. Do you know any reason why Keegan Roberts would  
20 not believe her?

21 A. No.

22 Q. If I told you that Jamie Lapress testified under  
23 oath that he frequently was late to work, would

1 Q. Do you recall Darcy Black wanting to be off one  
2 Saturday a month to be with her children?

3 A. No.

4 Q. Do you know if she was given Saturdays off --

5 A. No.

6 Q. -- upon request?

7 A. No.

8 Q. Meaning you don't know?

9 A. Meaning I don't know.

10 Q. Okay. Did you ever hear Jamie Lapress -- strike  
11 that. Did you ever hear anyone say that Bob  
12 Seibert said that his nigs were dirtying up the  
13 parking lot?

14 A. No.

15 Q. Was -- to the best of your knowledge, was Darcy  
16 always to work on time?

17 A. Yes. I remember that.

18 Q. To the best of your knowledge, did Darcy treat  
19 everyone the same and with respect?

20 A. Yes.

21 Q. I don't know if I asked you this. Did you ever  
22 hear of a person referred to as Turtle?

23 A. No.

1 Q. Do you ever hear of an individual named Matt  
2 Marshall?

3 A. No.

4 Q. Were you ever aware if Darcy -- strike that.  
5 Were you aware of Darcy Black -- strike that.

6 Were you allowed to bring your cell phone to  
7 the workplace?

8 A. No.

9 Q. Do you know any males who utilized their cell  
10 phone during working hours?

11 A. I don't remember.

12 Q. Did you ever consider, at any time, that Sean  
13 Round was jealous of your boyfriend?

14 A. Just probably when he made the comment, yes.

15 Q. Okay. The comment you are telling us about?

16 A. Yes.

17 Q. But other than that, that's the only comment you  
18 recall?

19 A. Right.

20 Q. If an employee referred to your children as  
21 niggers and the employer did not discharge or  
22 discipline them, would you stay at that  
23 employment?



1 A. No.

2 MS. GRECO: I have no further questions.

3 MS. O'BRIEN: I have no questions.

4 BY MS. GRECO:

5 Q. Just one more. Sorry.

6 Did you ever speak to anyone from -- any  
7 lawyer on behalf of the Defendant, not just  
8 counsel that's present, but anybody else?

9 A. No.

10 MS. GRECO: Okay. No further questions.

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1 I HEREBY CERTIFY that I have read the  
2 foregoing 128 pages and that, except as to those  
3 changes set forth in the attached errata form(s),  
4 they are a true and accurate transcript of the  
5 testimony given by me in the above-entitled  
6 action on May 20, 2019.

7  
8  
9  
10 -----  
11 RAELEAN MCGEE  
12  
13

14 Sworn to before me this

15  
16 ----- day of ----- 2019.  
17

18  
19 -----  
20 Notary Public.  
21  
22  
23